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PTO/SB/61 (06-03)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

P1171

First Named Inventor: PHILIPPE CAILLOUX

Art Unit: 2772

Application Number: 09/500,702

Examiner: ALMIS JANKUS

Filed: FEBRUARY 9, 2000

Title: METHODS AND APPARATUS FOR SUPPORTING AND IMPLEMENTING
COMPUTER BASED ANIMATION

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by
the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the
period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed
before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☒ Small entity - fee \$ 55.00 (37 CFR 1.17(i)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(i)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of
ELECTION IN RESPONSE TO RESTRICTION (identify the type of reply): ☒
REQUIREMENT

☐ has been filed previously on _____

☒ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been filed previously on _____

☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity of \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

7-25-2003
Date

Don R. Mollick
Signature

(831) 649-8800
Telephone Number

DON R. MOLLICK
Typed or printed name

28,972
Registration Number, if applicable

P.O. BOX 3140
Address

MONTEREY, CA 93942
Address

- Enclosure ☒ Fee Payment
☒ Reply
☐ Terminal Disclaimer Form
☒ Additional sheets containing statements establishing unavoidable delay
☒ US PATENT AND TRADEMARK OFFICE CREDIT CARD PAYMENT FORM

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Date

Signature

Typed or printed name of person signing certificate



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UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

7-25-2003
Date

Don R. Mollick
Signature

28,972
Registration Number, if applicable

DON R. MOLLICK
Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

PLEASE SEE ATTACHED STATEMENT CONCERNING THE CAUSES FOR THE
DELAY IN FILING A PROPER REPLY. ✓

(Please attach additional sheets if additional space is needed.)

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Date of Deposit: July 29, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Attention: Office of Petitions, Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Typed or Printed Name of Person Mailing Paper or Fee: Tessie A. Angeles

Signature: _____

PATENT
Docket No. P1171

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: PHILIPPE CAILLOUX
PHAC LE TUAN
DAN LIPTON
ANTONIO TUZZI
JEROME MAGNIER

SERIAL NO.: 09/500,702 EXAMINER: ALMIS JANKUS

FILED: FEBRUARY 9, 2000 ART UNIT: 2772

FOR: METHODS AND APPARATUS FOR SUPPORTING AND
IMPLEMENTING COMPUTER BASED ANIMATION

**ATTENTION: OFFICE OF PETITIONS
MAIL STOP PETITION
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450**

**STATEMENT CONCERNING THE CAUSES FOR THE DELAY
IN FILING A PROPER REPLY**

Dear Sir:

On May 22, 2002, Mr. David LaRiviere of LaRiviere, Grubman & Payne, LLP spoke with Examiner Almis Jankus and made a telephonic response to the Office Action dated April 18, 2002 regarding the restriction requirement. Mr. LaRiviere had elected Group 1, consisting of Claims 1-13 and 15-26. Mr. Jankus had advised that it was not necessary to provide a separate record of the substance of the interview.

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On November 12, 2002, Ms. Evelyn Martin of LaRiviere, Grubman & Payne, LLP spoke with a Customer Service representative at the United States Patent and Trademark Office. The clerk reported that the May 22, 2002 response to the Restriction electing Group I was not showing in the computer system. She indicated that the Examiner still had the file and transferred the call to his extension. Ms. Martin left a voice message for Mr. Jankus asking him to call and advise the current status of the application.

On March 19, 2003, Mr. Rick Medina of LaRiviere, Grubman & Payne, LLP left a message on Mr. Jankus' voice mail asking for an updated status of the application.

On March 26, 2003, Mr. Jankus returned Mr. Medina's call and informed him that a Restriction Requirement has been sent out on April 18, 2002 and that no response had been received. Mr. Medina informed Mr. Jankus that we have an Examiner's Interview Summary Record on file from him stating that a telephonic election of Group I (Claims 1-13, 15-26) have been made by Mr. LaRiviere on May 22, 2002. Mr. Jankus re-checked his records and apologized for overlooking it and stated that he would begin the examination within a few weeks and to expect the first Office Action within one month.

On May 30, 2003, LaRiviere, Grubman & Payne, LLP filed a Status Letter.

On July 16, 2003, LaRiviere, Grubman & Payne, LLP received a Status Letter Reply dated June 20, 2003 stating the last matter in the case was an Office Action mailed on April 18, 2002.

On July 23, 2003, Don R. Mollick of LaRiviere, Grubman & Payne, LLP spoke with Mr. Jankus. Mr. Jankus informed Mr. Mollick that the case has gone abandoned. We have not received a Notice of Abandonment. Mr. Jankus stated that he was about to issue a Notice of Allowance but the Attorneys Office rejected it. When the election was made a year ago, it appears no written response was entered. Mr. Jankus stated that if we petition to reinstate the application he will allow it.

M.P.E.P. § 812.01 Telephone Restriction Practice states:

If an examiner determines that a requirement for restriction should be made in an application, the examiner should formulate a draft of such restriction requirement including an indication of those claims considered to be linking or generic. No search or rejection of the linking claims should be made. Thereupon, the examiner should telephone the attorney or agent of record and request an oral election, with or without traverse if desired, after the attorney or agent has had time to consider the restriction requirement. However, no telephone communication need be made where the requirement for restriction is complex,

the application is being prosecuted by the applicant pro se, or the examiner knows from past experience that an election will not be made by telephone. The examiner should arrange for a second telephone call within a reasonable time, generally within 3 working days. If the attorney or agent objects to making an oral election, or fails to respond, the usual restriction letter will be mailed, and this letter should contain reference to the unsuccessful telephone call. (See MPEP § 809 and § 809.02(a)). **When an oral election is made, the examiner will then proceed to incorporate into the Office action a formal restriction requirement including the date of the election, the attorney's or agent's name, and a complete record of the telephone interview, followed by a complete action on the elected claims including linking or generic claims if present.** (Emphasis added)

It is apparent that the above procedure was not followed. When Mr. LaRiviere made the election no Office Action was sent. For all of the above reasons, it is apparent that the entire delay required to reply from the due date for the reply was unavoidable. LaRiviere, Grubman & Payne, LLP has done everything within its power to make a timely reply to the Office Action. Applicants hereby petition for revival of this application.

Attached herewith is our Written response to the Office Action dated April 18, 2003, electing Group I, Claims 1-13, 15-26.

Respectfully submitted,



Don R. Mollick
Reg. No. 28,972

DRM/taa/khg
July 29, 2003

LARIVIERE, GRUBMAN & PAYNE, LLP
Post Office Box 3140
Monterey, CA 93942
(831) 649-8800



"Express Mail" mailing label number: EU776549658US

Date of Deposit: July 29, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Attention: Office of Petitions, Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Typed or Printed Name of Person Mailing Paper or Fee: Tessie A. Angeles

Signature: *Tessie A. Angeles*

PATENT
Docket No. P1171

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: PHILIPPE CAILLOUX
PHAC LE TUAN
DAN LIPTON
ANTONIO TUZZI
JEROME MAGNIER

SERIAL NO.: 09/500,702 EXAMINER: ALMIS JANKUS

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450**

DECLARATION OF DON R. MOLLIK

Dear Sir:

I have examined the file in question and there is no Notice of Abandonment. I sent a Status Letter on May 30, 2003. The reply to the Status Letter stated that the last matter in the case was an Office Action mailed on April 18, 2002. The file contained an Office Action dated April 18, 2002. That Office Action was a restriction requirement and no claims were rejected under 35 U.S.C. §102, 35 U.S.C. §103 or 35 U.S.C. §112. The file also included a Notice of Examiner Interview dated May 22, 2002, which acknowledged election of Claims 1-13 and 15-26 signed by Examiner Jankus. The Notice further stated that no written statement of examiner

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interview was required. On July 23, 2003, I received a memo stating that Examiner Jankus had called. I returned Examiner Jankus' call and the substance of the conversation was that the case has gone abandoned. Examiner Jankus was about to issue a Notice of Allowance but the Attorneys Office made him take it back. When the election was made a year ago, it appears no written response was entered and the box waiving it was not checked. Examiner Jankus apologized and stated that the error was his. Examiner Jankus stated that if we petition to reinstate the application he will allow it.

Respectfully submitted,



Don R. Mollick
Reg. No. 28,972

DRM/taa/khg
July 29, 2003

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